

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

**ROGER D. MOSBY,
ADC #63018**

PLAINTIFF

v.

No. 4:12-cv-221-DPM

**J. LEON HOLMES, United States
District Judge**

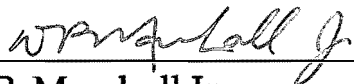
DEFENDANT

ORDER

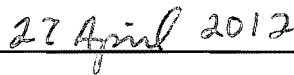
Mosby moves to proceed *in forma pauperis* in this § 1983 case. But Mosby is a three-striker under the Prison Litigation Reform Act. 28 U.S.C. § 1915(g); *see also Higgins v. Carpenter*, 258 F.3d 797, 800 (8th Cir. 2001) (upholding the constitutionality of the three-strikes provision). He has filed at least three cases that were dismissed for frivolousness or failure to state a claim upon which relief may be granted. *Mosby v. Dolphin*, 5:91-cv-337-SWW; *Mosby v. Reasoner*, 5:92-cv-761-ETR; *Mosby v. Williams*, 5:97-cv-457-GH. And Mosby does not fall within the exception to the three-strikes provision because he does not allege that he is in imminent danger of serious physical injury. 28 U.S.C. § 1915(g).

Mosby's motion to proceed *in forma pauperis*, Document No. 1, is denied, and his complaint is dismissed without prejudice. If he wishes to pursue this case, he must, within thirty days of the entry of this Order: (1) pay the full statutory filing fee of \$350, noting the case style and number; and (2) file a motion to reopen the case. The Court certifies that an *in forma pauperis* appeal from this Order and the accompanying Judgment would not be taken in good faith. 28 U.S.C. § 1915(a)(3).

So Ordered.



D.P. Marshall Jr.
United States District Judge



27 April 2012